

ESTTA Tracking number: **ESTTA598358**

Filing date: **04/14/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92048732
Party	Plaintiff Altwater Gessler - J.A. Baczewski International (USA) Inc. and Altwater Gessler - J.A. Baczewski GmbH
Correspondence Address	PETER S SLOANE LEASON ELLIS LLP ONE BARKER AVE, FIFTH FL WHITE PLAINS, NY 10601 UNITED STATES sloane@leasonellis.com, reuber@leasonellis.com, tmdocket@leasonellis.com
Submission	Other Motions/Papers
Filer's Name	Peter S. Sloane
Filer's e-mail	sloane@leasonellis.com, reuber@leasonellis.com, tmdocket@leasonellis.com
Signature	/peter sloane/
Date	04/14/2014
Attachments	2014-04-14 Declaration of Peter Sloane ISO Opposition to Motion.pdf(164983 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

	-----X	
ALTVATER GESSLER – J.A. BACZEWSKI	:	
INTERNATIONAL (USA) INC. and ALTVATER	:	
GESSLER – J.A. BACZEWSKI LIKÖRERZEUGUNG	:	
GESELLSCHAFT M.B.H. d/b/a	:	
ALTVATER GESSLER – J.A. BACZEWSKI GMBH,	:	
	:	
Petitioners,	:	Cancellation No. 92048732
	:	
v.	:	
	:	
RONALD BECKENFELD,	:	
	:	
Respondent.	:	
	:	
	-----X	

**DECLARATION OF PETER S. SLOANE IN SUPPORT OF PETITIONERS’
OPPOSITION TO RESPONDENT’S MOTION TO RE-OPEN DISCOVERY**

I, PETER S. SLOANE, hereby declare and state as follows:

I am a Partner in Leason Ellis LLP, attorneys for Petitioners. I submit this Declaration in opposition to Respondent’s motion to re-open discovery. The facts stated herein are within my personal knowledge and are true to the best of my knowledge and belief.

1. On February 27, 2014, I wrote to Michael Lovitz, attorney for Respondent, and asked whether Respondent was willing to produce any additional documents responsive to Petitioners’ third set of document requests in order to avoid the need for Petitioners to modify those document requests.

2. In early March of 2014, I followed up on my correspondence with Mr. Lovitz and spoke with him about Respondent producing additional documents without Petitioners having to modify their document requests. Mr. Lovitz said that he would consult with his client.

3. On March 14, 2014, having not heard back, on behalf of Petitioner, I served Respondent with modified document requests. A copy of the covering e-mail is attached as **Exhibit A**. Respondent has not yet served his responses.

4. Petitioners served Respondent with their pretrial disclosures on March 24, 2014.

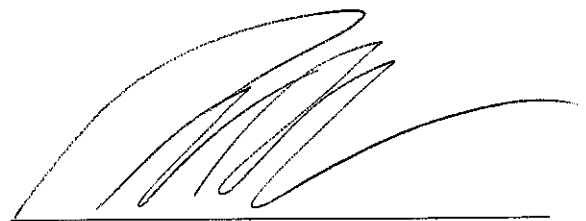
5. Petitioners identified Leonie Gessler as an individual likely to have discoverable information in their Initial Disclosures dated May 30, 2008. A copy of Petitioners' Initial Disclosures Pursuant to Fed.R.Civ.P. 26(a)(1) is attached as **Exhibit B**.

6. Respondent failed to take any discovery of Mrs. Gessler during the discovery period.

7. Leonie Gessler is now 82 years old.

I hereby declare under penalty of perjury that the forgoing is true and correct to the best of my knowledge and belief.

Date: April 11, 2014

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the end, positioned above a solid horizontal line.

Peter S. Sloane

Exhibit A

Peter S. Sloane

From: Peter S. Sloane
Sent: Friday, March 14, 2014 12:48 PM
To: Michael Lovitz (michael@bowenhayes.com)
Subject: FW: Altvater Gessler - J.A. Baczewski International (USA) Inc. and Altvater Gessler - J.A. Baczewski GmbH v. Ronald Beckenfeld (Cancellation No. 92048732) (Your Ref.: 4719/606020-000)
Attachments: Modified Requests.pdf

Michael:

This is further to our telephone conversation last week. We had discussed that you would consult with your client about producing the trust documents without our having to modify our document requests. Since I have not heard back, we have now served the modified requests. A courtesy copy is attached. The service copy follows by regular mail.

Best regards,

Peter.

From: Peter S. Sloane
Sent: Thursday, February 27, 2014 3:48 PM
To: 'Michael Lovitz'
Subject: RE: Altvater Gessler - J.A. Baczewski International (USA) Inc. and Altvater Gessler - J.A. Baczewski GmbH v. Ronald Beckenfeld (Cancellation No. 92048732) (Your Ref.: 4719/606020-000)

Hi Michael:

I was away from the office next week. I will confer with my client.

I note that the Board denied our motion to compel, but has given us the opportunity to modify our requests for production. Please let me know whether Ron is willing to produce any of the responsive documents to avoid need for modification.

Best regards,

Peter S. Sloane
LEASON ELLIS.
One Barker Avenue, Fifth Floor
White Plains, New York 10601
Sloane@LeasonEllis.com
T. 914.821.9073
C. 914.419.6159
F. 914.288.0023
Skype: sloane.leasonellis

Please visit www.LeasonEllis.com. This e-mail, including any attached files, may contain information that is privileged, confidential or otherwise exempt from disclosure and is solely for the intended recipient(s). Persons other than the intended recipient are prohibited from disclosing, distributing, copying or otherwise using this e-mail. If you received this e-mail in error, please notify the sender or call Leason Ellis' main number 914.288.0022 and delete it from your computer(s). Thank you.

Exhibit B

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Registration Nos. 2,731,948

ALTVATER GESSLER – J.A. BACZEWSKI
INTERNATIONAL (USA) INC. and ALTVATER
GESSLER – J.A. BACZEWSKI GMBH,

Petitioners,

Cancellation No. 92048732

v.

RONALD BECKENFELD,

Registrant.

PETITIONERS' INITIAL DISCLOSURES PURSUANT TO FED.R.CIV.P. 26(a)(1)

Petitioners, Altvater Gessler – J.A. Baczewski International (USA) Inc. and Altvater Gessler – J.A. Baczewski GmbH (“Petitioners”), by and through their attorneys, Ostrolenk, Faber, Gerb & Soffen, LLP, for their initial disclosures pursuant to Federal Rule of Civil Procedure 26(a)(1), hereby state as follows:

A. Identification of Individuals Likely to have Discoverable Information

The following individuals may have discoverable information that Petitioners may use to support their claims contained in the Petition for Cancellation:

1. Rasiel Gessler
President
Altvater Gessler – J.A. Baczewski International (USA) Inc. and Altvater Gessler – J.A. Baczewski GmbH
7/3 Taiber Street
Givataim, Israel 53415
Tel.: (972) (3) 573-4413

Petitioners' ownership of the mark in dispute. This individual may be contacted through Petitioners' counsel.

2. Leonie Gessler
Vice President
J.A. Baczewski International (USA) Inc.
2179 South Street
Fort Lee, New Jersey 07024
Tel.: 201-592-7245

Petitioners' ownership of the mark in dispute. This individual may be contacted through Petitioners' counsel.

3. Tom Gessler
Vice President
Altvater Gessler -- J.A. Baczewski GmbH
2716 Riverdale Avenue
Bronx, New York 10453
Tel.: 201-314-1021

Petitioners' ownership of the mark in dispute. This individual may be contacted through Petitioners' counsel.

4. Mickey Beckenfeld
President
Mutual Wholesale Liquor Inc. d/b/a International Import Export
4510 South Boyle Avenue
Los Angeles, California 90058

Petitioners' ownership of the mark in dispute.

5. Ronald Beckenfeld
President
CVC Wholesale
Los Angeles, California 90058

Petitioners' ownership of the mark in dispute.

6. John Wilson
General Manager
Mutual Wholesale Liquor Inc. d/b/a International Import Export
4510 South Boyle Avenue
Los Angeles, California 90058

Petitioners' ownership of the mark in dispute.

7. Harvey Monastirsky
Vice President
Mutual Wholesale Liquor Inc. d/b/a International Import Export
4510 South Boyle Avenue
Los Angeles, California 90058

Petitioners' ownership of the mark in dispute.

Petitioners reserve the right to supplement, if necessary, this initial disclosure as additional facts are discovered during the pendency of this action which are presently not known.

B. Description of Documents by Category and Location

The following is a description, by category, of the documents that Petitioners believe, at the present time, may be used in support of their claims as set forth in the Petition for Cancellation.

1. Corporate documents.
2. Label approval documents.
3. Trademark registration documents.
4. Purchase orders, invoices and payment accountings.
5. Shipping documents.
6. Bottling labels and cartons and photographs.
7. Advertising and promotional materials.
8. Awards.
9. Internet advertising.
10. Articles.
11. Letters and e-mails.
12. Surveys.
13. Registrations in Poland and Austria.
14. Recipes.
15. Historical documents.

As presently known, relevant documents that Petitioners may use to support their claims may be found at the below locations.

Rasiel Gessler
7/3 Taiber Street
Givataim, Israel 53415

Altwater Gessler – J.A. Baczewski GmbH
Strobelgasse 2/2
Stock 13
A-1010 Vienna, Austria

Altwater Gessler – J.A. Baczewski International (USA) Inc.
2179 South Street
Fort Lee, New Jersey 07024

Mutual Wholesale Liquor Inc. d/b/a International Import Export
4510 South Boyle Avenue
Los Angeles, California 90058

Petitioners reserve the right to supplement, if necessary, this initial disclosure as additional facts are discovered during the pendency of this action which are presently not known.

C. Computation of Damages

Monetary damages are not at issue in this *inter partes* proceeding before the Trademark Trial and Appeal Board of the United States Patent and Trademark Office.

D. Insurance Agreements

Monetary damages are not at issue in this *inter partes* proceeding before the Trademark Trial and Appeal Board of the United States Patent and Trademark Office.

Dated: May 30, 2008
New York, New York

OSTROLENK, FABER, GERB & SOFFEN, LLP

By: 

Peter S. Sloane
Angela M. Martucci


1180 Avenue of the Americas
New York, New York 10036-8403
Telephone: (212) 382-0700
Facsimile: (212) 382-0888

Attorneys for Petitioners

CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the foregoing
PETITIONERS' INITIAL DISCLOSURES PURSUANT TO FED.R.CIV.P. 26(a)(1) was
served upon counsel for Registrant this 30th day of May, 2008, by First-Class mail, postage
prepaid, addressed as follows:

Michael L. Lovitz, Esq.
Connolly Bove Lodge & Hutz LLP
333 S. Grand Ave., Suite 2300
Los Angeles, California 90071


Peter S. Sloane